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NORRIS McLAUGHLIN & MARCUS
220 East 42nd Street
30th Floor
New York, New York 10017

In re Application of :
HAUSER-RUNKE, Charlotte :
Application No.: 09/913,631 :
PCT No.: PCT/EP00/01368 :
Int. Filing Date: 18 February 2000 :
Priority Date: 19 February 1999 :
Attorney's Docket No.: Kreisler 1086-KGB :
For: HORMONE-HORMONE RECEPTOR :
COMPLEXES AND NUCLEIC ACID :
CONSTRUCTS AND THEIR USE IN :
GENE THERAPY :

DECISION ON PETITION

TO WITHDRAW HOLDING

OF ABANDONMENT

The decision is in response to applicant's "Petition Under 37 CFR § 1.181(a) to Withdraw Holding of Abandonment" filed 16 January 2003. No fee is required.

BACKGROUND

On 16 October 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b), a \$130.00 surcharge fee, and a new computer readable form of sequence listing must be provided. A two-month time period for response was set with extensions of time available under 37 CFR 1.136(a).

On 14 December 2001, applicants purportedly mailed a response to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration, a substitute computer diskette and authorization to charge the \$130.00 surcharge fee to Deposit Account No. 14-1263.

On 21 November 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 within the time period set.

On 16 January 2003, applicants filed the instant petition which was accompanied by, *inter alia*, copies of documents purportedly filed 08 January 2003 and a stamped postcard receipt for those documents. A copy of the substitute computer diskette purportedly filed 08 January 2002 was not submitted.

On 03 October 2003, applicant submitted a document titled "Statement Re: Computer Readable Form of Sequence Listing " which was accompanied by, *inter alia*, a copy of the substitute computer dislette and stamped postcard receipt for the documents filed upon entering the national stage on 16 August 2001.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicant must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant provided a copy of the date-stamped filing receipt for documents submitted 08 January 2002. The filing receipt records that an "Combination Declaration and Power of Attorney" and Diskette Containing Sequence Listing" were received in the USPTO. The filing receipt is stamped "JC10 Rec'd PCT/PTO 08 JAN 2002" across its face. The U.S. application number was listed on the postcard receipt. Moreover, a review of USPTO financial records show that a \$130.00 surcharge fee was received in the above-identified application on 08 January 2002.

Accordingly, applicant has provided *prima facie* evidence that the declaration and diskette were originally received by the USPTO on 08 January 2002.

DECISION

For the reasons above, applicant's petition to withdraw the holding of abandonment is **GRANTED**. Accordingly, the Form PCT/DO/EO/909 mailed 21 November 2002 is hereby **VACATED**.

The declaration originally filed 08 January 2002 is in compliance with 37 CFR 1.497(a) and (b). This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457